

It would appear, that since claims 4 and 7 are directed both to a pyrotechnic initiator, both have exactly the same utility, whatever the Examiner may consider that utility to be.

It is true that claim 4 does recite the insulating layer and that claim 7 does not. Nevertheless, that does not create separate utility for the two. Indeed, the other basis for finding combination and subcombination to be distinct is where the combination as claimed does not require the particulars of the subcombination as claimed for patentability. It is telling that the combination as claimed here does require the particulars of the subcombination as claimed for patentability.

In short, the "combination" cannot be shown to be distinct from the "subcombination" within the terms of MPEP Section 806.05(c) and hence the restriction requirement is improper and should be withdrawn.

An action on the merits of all of the claims should be given.

Respectfully submitted,  
The Firm of Karl E. Ross P.C.



---

By: Herbert Dubno, Reg. No. 19,752  
Attorney for Applicants

ef-  
12 October 2004  
5676 Riverdale Avenue Box 900  
Bronx, NY 10471-0900  
Cust. No.: 535  
Tel: (718) 884-6600  
Fax: (718) 601-1099